

28 January 1971

MEMORANDUM FOR THE RECORD

SUBJECT: Bill to Protect Constitutional Rights and Invasion  
of Privacy of Government Employees  
H. R. 228 - 92nd Congress

1. Congressman Matsunaga, Hawaii, has again introduced a bill modeled after the Ervin Bill. The bill by Matsunaga introduced in the 91st Congress (HR 7486) was a copy of the original bill submitted by Senator Ervin. It did not reflect the amendments to the Ervin Bill which included the partial exemption for CIA. The present bill has not yet been received but it will probably be the same as the original Ervin Bill.

2. H. R. 228 has been referred to the Civil Service and Post Office Committee.



Assistant Legislative Counsel

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Congress of the United States  
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Committee on Appropriations  
Washington, D.C. 20515

June 30, 1970

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Honorable David N. Henderson, Chairman  
Subcommittee on Manpower and Civil Service  
Committee on Post Office and Civil Service  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Chairman:

It has come to my attention that S. 782, a bill to protect the civilian employees of the Executive Branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasion of their privacy, was passed by the Senate on 19 May 1970 and is now being considered by your Subcommittee. I am concerned over the possible adverse impact of this legislation on the effectiveness with which sensitive agencies of the Government, such as the Central Intelligence Agency, carry out their important missions.

As you know, the administration of the Central Intelligence Agency is governed by the National Security Act of 1947 and the Central Intelligence Agency Act of 1949. This legislation imposes on the Director of Central Intelligence responsibility "... for protecting intelligence sources and methods from unauthorized disclosure ..." and provides that "In the interests of the security of the foreign intelligence activities of the United States ... the Agency shall be exempted from the provisions ... of any ... law which require(s) the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency ...".

It would appear that certain provisions of S. 782 would

directly conflict with the above-mentioned statutory responsibilities of the Director for protecting sources and methods and other data relating to the Agency, and therefor be detrimental to our national security.

The bill would, as I understand it:

a. Require substantial change in the Agency's established policy for ensuring the loyalty and suitability of its personnel.

b. Grant any employee the right to insist upon counsel or outside representation whenever questioned on any matter which might conceivably lead to disciplinary action.


c. Enable any employee or applicant, or employee organization acting in behalf of an employee or applicant, to bring civil suit in Federal court against any official allegedly guilty of violating or threatening to violate the law.

I am convinced that the present security and personnel procedures of the CIA are necessary for it to succeed in its vital mission. Any intelligence activity which becomes known to our opponents is seriously downgraded. It is difficult, in a free and open society such as ours, to maintain the degree of secrecy necessary to such operations, but our national security demands that we continue to be well informed on the operations and the technology of our opponents.

I am also convinced that the Agency fully realizes that security and personnel procedures must be carried out with utmost regard for the personal dignity and privacy of its employees, if it is to receive in return the high level of personal discipline it demands of its employees. I therefore am strongly of the opinion that the Agency should be completely exempted from the provisions of S. 782.

I would appreciate it if you would make my views known to the Members of your Subcommittee when this legislation is under consideration.

Sincerely,

  
George Mahon  
Chairman